

Our freedoms being usurped little by little

By JONATHAN TURLEY

For the Los Angeles Times

WHAT WOULD HAPPEN if you woke up living in a quasi-police state? It is a question that seems entirely academic — if not absurd — to Americans who pride themselves on being the leading voice of liberty in the world. This status, however, is less unquestionable as it is unquestioned. A review of administration policies at the beginning of 2003 raises serious questions about the character of the government formed in the aftermath of the Sept. 11 attacks.

Major changes have come in small, incremental steps, with each privacy right or civil liability concern balanced in isolation against the potential of a massive attack.

In a sense, the Bush administration is a study in public policy pointillism, the Impressionist technique of French painter Georges-Pierre Seurat in which innumerable small dots of color are largely meaningless until the viewer stands at a distance. Only then does a picture emerge as a whole from the aggregation of the dots. So too the full effect of the changes of the Bush administration is only now coming into view.

Among the "dots":

- Holding citizens indefinitely without access to the courts or counsel.

- Monitoring library withdrawals and Internet communications.

- Taping attorney-client communications.

- Attempting to create a national reporting system for citizens to monitor one another in their day-to-day activities.

- Developing a massive computer system to monitor every purchase by every citizen, from hospital bills to gasoline.

- Establishing a huge surveillance system, including the expansion of searches ordered by a secret court without satisfying the probable cause standards of the Constitution.

- Claiming the right to create a military tribunal system to try and execute suspects without applying the Constitution or federal laws.

- Assisting private organizations in creating the foundation for a national identification card that could easily become a type of internal passport for citizens.

- Recommending state laws (already adopted in many states) that give governors virtual dictatorial control after they unilaterally declare emergencies because of "potential" health threats.

- Expanding the use of the military in domestic law enforcement.

- Endorsing the broad use of assassination as an alternative to capture, including the possible assassination of citizens.

- Refusing to apply the Geneva Convention and then later agreeing to apply only part of it. Most recently, it was disclosed that the United States created a facility in Afghanistan where suspects reportedly had been tortured by U.S. officials or sent to surrogate nations for torture.

These are but a few of the changes since the Sept. 11 attacks. In the campaign for greater government powers, the Constitution is increasingly cited as exposing the nation to risks. In less than two years, the Constitution has gone from an objective to be satisfied to an obstacle to national defense. Constitutional rights and values are portrayed as luxuries of the good old days.

As these changes mount, at what point do we become something other than a free and democratic nation? This status is determined by a commitment to fundamental legal principles in good times and bad.

We will never know whether we could have won without changing our fundamental beliefs or principles. It is unclear when this "war on terror" will end. But if it does end and we win, what will we be other than victorious?

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